

## 65 - INDEPENDENT AGENCIES - REGULATORY

### 407 - PUBLIC UTILITIES COMMISSION

#### CHAPTER 288 – Maine Universal Service Fund

SUMMARY: The purpose of this Rule is to provide “high cost” support for those local exchange telephone companies that are not able to maintain affordable and reasonably comparable local service rates without that support and to provide support for other requirements established by law. The Rule assesses the intrastate retail service revenues of all telecommunications providers.

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## § 1 PURPOSE

The purposes of the High Cost Maine Universal Service Fund (MUSF or Fund) implemented pursuant to this Chapter are:

A. Promotion and Encouragement of Universal Service and Reasonable Rates. To ensure that similar telecommunications services are available to consumers throughout the State at affordable rates that are reasonably comparable to those for low cost and average cost areas; and

B. Provide Support. To provide support from the Fund to local exchange carriers (LECs) that provide local exchange service in areas served by rural incumbent local exchange carriers and that are unable otherwise to meet their allowed intrastate revenue requirement from retail local exchange, other telephone services, and access revenues.

## § 2 DEFINITIONS

A. Access Charges. "Access charges" and "access rates" are those charges and rates, required by Chapter 280, that an interexchange carrier must pay to Local Exchange Carriers (LECs) for using the LECs' facilities to originate and terminate intrastate interexchange service in Maine.

B. Basic Service Calling Area. A "Basic Service Calling Area" is the area that a local exchange subscriber may call without toll charges, as defined in Chapter 204 of the Commission's Rules.

C. Competitive Local Exchange Carrier (CLEC). A "competitive local exchange carrier" or "CLEC" is any local exchange carrier (LEC) that is not an incumbent local exchange carrier (ILEC) (defined herein).

D. E911 Address. The "E911 Address" is the "Registered Address" provided by the customer to an interconnected VoIP provider pursuant to 47 C.F.R. § 9.5 (or successor regulations) or that the interconnected VoIP provider has obtained by any other means.

E. Eligible Telecommunications Carrier (ETC). An "eligible telecommunications carrier" or "ETC" is a carrier designated by this Commission as eligible to receive universal service support for intrastate service pursuant to the provisions of 47 U.S.C § 214(e).

F. FairPoint NNE. "FairPoint NNE" means Northern New England Telephone Operations LLC d/b/a FairPoint Communications, the FairPoint Communications company that is the successor to Verizon New England Inc.

G. Incumbent Local Exchange Carrier (ILEC). "Incumbent local exchange carrier" or "ILEC" means a local exchange carrier or its successor that provided local

exchange service in a defined service territory in Maine on February 8, 1996 or that is designated as an ILEC pursuant to 47 U.S.C. § 251(h)(2).

H. Interconnected Voice over Internet Protocol Service ("Interconnected VoIP"). "Interconnected Voice over Internet Protocol Service" or "interconnected VoIP" means a service that enables real-time, two-way voice communications; requires a broadband connection from the user's location; requires internet protocol-compatible customer premises equipment (CPE); and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

I. Intrastate Interexchange Carrier (IXC). An "intrastate interexchange carrier" or "IXC" is any person, association, corporation, or other entity that provides intrastate interexchange telecommunications services, including local exchange carriers, mobile telecommunications carriers and interconnected VoIP providers that provide interexchange service.

J. Intrastate Retail Revenue. "Intrastate Retail Revenue" is (a) revenue that a carrier bills (in advance or in arrears) for Maine intrastate telecommunications services sold to end-user customers for use by those customers, less the carrier's factor for uncollectibles; or (b) if a carrier collects revenue in advance of providing services, all revenue that a carrier receives from the sale of Maine intrastate telecommunications services to end-user customers for use by those customers. Intrastate Retail Revenue does not include revenue received from sales of services to other carriers for resale by those carriers; revenue from access services sold to other carriers; interconnection revenue received from other carriers, including from the sale of unbundled network elements; and revenue derived from surcharges for the MUSF, MTEAF, ConnectME, 911 and similar funding requirements.

K. Intrastate Service. An "intrastate service" is the provision of a telecommunications service that is functionally intrastate, with points of origination and termination within Maine, regardless of the actual routing of the communication. In the case of mobile telecommunications and paging services, the points of origination and termination of the communication shall be assumed to be the antenna locations at which the carrier acquires and passes on the end user's signal, unless the actual location of the end user can be determined.

L. Local Exchange Carrier (LEC). A "local exchange carrier" or "LEC" is a telephone utility, as defined by 35-A M.R.S.A. § 102(19), that provides telephone exchange service or interexchange access service within a telephone exchange pursuant to authority granted by the Maine Legislature or by this Commission. LECs include incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs) (both defined herein).

M. Local Exchange Service. "local exchange service" is telephone service that provides calling from originating points to terminating points within the basic service calling area (BSCA) (or local calling area) of the incumbent local exchange carrier that

is provided by a local exchange carrier (as defined herein) or any other telecommunications provider.

N. Mobile Telecommunications Carrier. A "mobile telecommunications carrier" is a carrier that provides mobile telecommunications services, as defined in 35-A M.R.S.A. § 102(9-A).

O. Nomadic Interconnected Voice over Internet Protocol Service. "Nomadic Interconnected Voice over Internet Protocol Service" or "Nomadic interconnected VoIP service" is an interconnected VoIP service (defined herein) that permits users to make and receive calls from any location where the user can obtain access to a broadband connection that will permit connection to the interconnected VoIP service provider.

P. Radio Paging Service Provider. A "radio paging service provider" is a carrier that provides a radio paging service, as defined in 35-A M.R.S.A. § 102(15).

Q. Rural Local Exchange Carrier (Rural LEC) or Rural Telephone Company. A "rural local exchange carrier" or "rural telephone company" is defined in 47 U.S.C. § 153(37).

R. Telecommunications. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

S. Telecommunications Carrier. "Telecommunications carrier" means any provider of telecommunications services, including a provider of interconnected VoIP service, except that it does not include aggregators of telecommunications services which, in the ordinary course of their operations, make telephones available to the public or to transient users of their premises using a provider of operator services.

T. Telecommunications Service. "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such class of users as to be effectively available directly to the public, regardless of the facilities used.

### § 3 RECIPIENTS AND AMOUNTS

A. Eligible Applicants. To be eligible to apply for support from the MUSF, a carrier must be:

1. A rural incumbent local exchange carrier or a competitive local exchange carrier that provides service in an area served by a rural incumbent local exchange carrier; and
2. Found by the Commission to be an Eligible Telecommunications Carrier.

B. Application for Universal Service Funding or Change in Funding.

1. Filing; timing. A rural incumbent local exchange carrier that intends to request universal service funding or a change in the amount of funding shall file an application requesting the funding or change in funding.

2. Timing. If the rural incumbent local exchange carrier is required by section 3(C)(1) to participate in a rate proceeding prior to initial funding or a change in funding or if it decides on its own to file a rate case, the application for universal service funding shall be filed at the same time as the rate case. If the Commission opens a rate investigation, the carrier shall file an application for universal service funding at the time it makes its rate case filing

3. Contents. The application or rate filing shall contain all information required by Chapter 120, Section 5, except to the extent waived pursuant to Section 6 of this Chapter.

C. Determination of Need for Rural Incumbent LECs. Prior to initial high cost universal service funding of a rural incumbent local exchange carrier or in a change in the funding amount:

1. The Commission must determine, in a rate proceeding completed no earlier than one year prior to the effective date of the funding or change in funding, the rural incumbent LEC's intrastate revenue requirement, and must find that the rural incumbent LEC will be unable to meet that revenue requirement after it has met the requirements of paragraphs 2, 3 and 4 below;

2. The rural incumbent LEC must establish intrastate access rates that meet the requirements of 35-A M.R.S.A. § 7101-B, any requirements established by the Commission pursuant to 35-A M.R.S.A. § 7101-B(2)(C), and Chapter 280, § 8 of the Commission's Rules; and

3. Subject to the exceptions contained in Section 3(D), the rural incumbent LEC must establish local basic service rates that are no less than those of FairPoint NNE exchanges that have Basic Service Calling Areas of a similar size; and

4. Unless the Commission orders otherwise for good cause, the rural incumbent LEC must establish rates for optional calling features and other services that provide the greatest possible contribution to its revenue requirement.

D. Exceptions.

1. The Commission may allow deviations from FairPoint NNE local exchange rates in individual exchanges if it is desirable to establish or preserve a rate design for a rural incumbent LEC, including disparities within and among exchanges that are a result of the operation of Chapter 204 (Basic Service Calling Areas), provided that, on an overall basis, the carrier's rates are no less than those of FairPoint NNE.

2. The Commission may determine, for a particular carrier or exchange, that immediately raising the basic exchange rates to those of FairPoint NNE

is not in the public interest and that the carrier may temporarily establish local rates at a lower level. However, no more than 3 years after the initial determination to provide high cost support to a local exchange carrier is made under this rule (or such other date as may be established by statute), a LEC receiving high cost support must raise its local exchange rates to levels that are no less than those of FairPoint NNE, subject to the exception in Section 3(D)(1).

E. Support For Additional Carriers. In the event that a competitive local exchange carrier is certified to serve an area that is already served by a rural incumbent local exchange carrier receiving support from the MUSF, and the Commission has terminated the rural exemption for the rural incumbent LEC pursuant to the provisions of 47 U.S.C. § 251(f)(1)(B), the competitive carrier may petition the Commission to receive support from the Fund. The Commission will determine:

1. the method of calculating the amount and the amount of funding that the additional carrier will receive, and
2. the amount, if any, by which the amount of funding of any carrier already receiving funding for serving that area will be adjusted.

F. Order Establishing Amount of Support. Following any application or rate proceeding required by this Section or any adjustment or order for support permitted by this Section, the Commission shall issue an order establishing the amount of payments that a local exchange carrier is authorized to receive from the Fund and, if necessary, a schedule for the implementation of the rates for local exchange service that is required by section 3(C)(3) and 3(D).

G. Adjustments Without Further Rate Proceeding. At any time after the initial establishment of the MUSF support level for a local exchange carrier, the Commission, without an additional rate proceeding, but after notice and such procedure as required by law, may adjust the amount of support provided from the Fund to accommodate substantial and direct changes in the costs or revenues of a local exchange carrier that receives payments from the Fund that result from changes in:

1. access charges;
2. the amount of federal high cost support;
3. a Basic Service Calling Area;
4. local exchange rates by a local exchange carrier that, pursuant to Commission order issued pursuant to Section 3(C), is phasing in rates to a level that is comparable to FairPoint NNE rates, or
5. federal or Maine regulatory rules or policies, accounting practices, tax laws, or other legislatively or judicially imposed requirements to the extent these changes have a direct and specific effect on telecommunications carriers collectively or individually.

H. Adjustments for Other Reasons. To change the amount of payments that a local exchange carrier receives from the Fund for reasons other than those listed in Section 3(G), the Commission shall conduct a proceeding that is appropriate to address the request. If a rural incumbent local exchange carrier requests a change in the amount of payments because of claimed changes in its revenue requirement or revenues for reasons other than those listed in Section 3(G), the Commission generally shall conduct a rate proceeding, but the Commission may waive this requirement for good cause.

#### § 4 THE FUND

A. Fund Administrator. The Commission will choose an Administrator that is not a state entity and is not a telecommunications entity (or an affiliated interest thereof) that contributes to or receives money from the Fund.

B. Amount of Fund; Adjustments. The Fund Administrator will calculate the Fund Costs, which shall be equal to the amount of contributions necessary for high cost support payments to eligible local exchange carriers, other payments required or authorized by 35-A M.R.S.A. § 7104-B, any other payments required by law, and administrative costs of the Fund. The Administrator may also include an additional amount, not to exceed one percent of the contributions necessary to support the Fund Costs, to account for amounts billed to contributors that may be uncollected. The Administrator will evaluate quarterly the need for and amount of the uncollectible factor and recommend any change to the Commission. A change in the uncollectible factor shall be effective upon approval by the Commission or the Director of Telephone and Water Utility Industries. The Administrator will recalculate the Fund Costs quarterly, pursuant to Commission Orders described in Section 3 and changes in Fund Costs otherwise required by law or by order of the Commission. The Commission may also require the Administrator to collect in a subsequent quarter any additional Fund Costs that became effective in a previous quarter that the Administrator was not able to collect in that quarter.

C. Reporting of Revenues by Carriers. All interexchange carriers (IXCs), Local Exchange Carriers (LECs), mobile telecommunications carriers, radio paging providers, and interconnected VoIP service providers that provide intrastate telecommunications service in Maine and that have \$12,500 or more in Intrastate Retail Revenues for the previous quarter shall report those revenues and its uncollectible factor, if any, quarterly to the Administrator on the date and in a format to be established by the Administrator. This subsection shall apply to interconnected VoIP providers that reported Intrastate Retail Revenues to the Telecommunications Education Access Fund prior to October 27, 2010. It shall apply to other interconnected VoIP providers only if action, after June 9, 2011, by the Maine Legislature makes such application lawful, upon the effective date of such action by the Legislature.

D. Contribution Requirement. Each carrier or provider that is required by subsection B to report its Intrastate Retail Revenue must contribute to the Fund in the amount established by multiplying its Intrastate Retail Revenue for the most recently



completed quarter by the Revenue Percentage established by the Administrator pursuant to Section 4(I). Assessments apply to all Intrastate Retail Revenue derived from telecommunications services provided in Maine, subject to the allocations described in Section 4(E), 4(F), or 4(G), as applicable, for revenues derived from rates and charges described in those provisions. The Administrator will determine the amount that each carrier must contribute to the fund using the method contained in Section 4(I). This requirement shall apply to interconnected VoIP providers that contributed to the Telecommunications Education Access Fund prior to October 27, 2010. It shall apply to other interconnected VoIP providers only if action, after June 9, 2011, by the Maine Legislature makes such application lawful, upon the effective date of such action by the Legislature.

E. Assessment of Interexchange Revenues Derived from Jurisdictionally Mixed Retail Charges.

1. Application. Assessments shall apply to the intrastate portion of the revenues of an IXC derived from retail charges or rates that apply on an unseparated basis to both intrastate and interstate service provided in Maine (e.g., minimum monthly charges, with or without a usage allowance, or charges that combine interexchange and local services). Unless the Commission or the Director of Telephone and Water Utility Industries approves an alternative allocation method for a carrier pursuant to paragraph 3 below, a carrier that provides interexchange service shall use the default allocation method contained in paragraph 2.

2. Default Allocation Method for IXCs. For each carrier that provides interexchange service as part of a rate or charges rates that apply on an unseparated basis to both intrastate and interstate interexchange service, the intrastate portion of those interexchange revenues shall be determined by applying the ratio of the carrier's Maine intrastate directly assigned retail revenue (e.g., usage charged at a per-minute rate), if any, to total (intrastate plus interstate) directly assigned retail revenue for service rendered in Maine. The carrier shall report its intrastate and total Maine revenues and the percentage of intrastate revenue to the Administrator.

3. Alternative Allocation Method. Upon application by a reporting carrier, the Commission or the Director of Telephone and Water Utility Industries may approve an alternative allocation method for IXCs for revenues derived from retail charges or rates that apply on an unseparated basis to both intrastate and interstate service or that include local (including ancillary) services using a reasonable and verifiable apportionment method.

F. Assessment and Allocation of Revenues Derived from Unseparated Charges That Include Local and/or Ancillary Service Rates.

1. Assignment of Local and Ancillary Service Portion as Intrastate. For each provider of local exchange or interexchange service that offers a rate that includes both interexchange and local exchange services (including ancillary local exchange services such as call waiting, call forwarding, caller ID and the like), the

portion of the rate that applies to local exchange (including ancillary) services shall be deducted prior to making the allocation described in subsection E(2) or E(4) and shall be reported entirely as intrastate revenue. The carrier shall report its local exchange and ancillary service revenue as determined pursuant to this paragraph to the Administrator.

2. Default Determination of Local and Ancillary Service Portion. The local (including ancillary) portion of any rate that includes both interexchange and local exchange (including ancillary) services shall equal the carrier's separate rates for local exchange and ancillary services. If the carrier has no separate rates for local exchange service or ancillary services, it shall use FairPoint NNE's local exchange and ancillary service rates, but must obtain approval of the Director of Telephone and Water Utility Industries for the method of determining the applicable FairPoint NNE rates.

3. Alternative Determination of Local and Ancillary Service Portion. Upon application by a reporting carrier, the Commission or the Director of Telephone and Water Utility Industries may approve an alternative method for the determination of the local and ancillary service portion of any rate that includes both interexchange and local exchange (including ancillary) services.

G. Determination of Intrastate Retail Revenues from Jurisdictionally Mixed Charges of Mobile and Interconnected VoIP Telecommunications Carriers.

1. Application of Subsection. This subsection shall apply to all Contributing Telecommunications Carriers, including interconnected VoIP providers that reported Intrastate Retail Revenues and contributed to the Telecommunications Education Access Fund prior to October 27, 2010. It shall apply to other interconnected VoIP providers only if action, after June 9, 2011, by the Maine Legislature makes such application lawful, upon the effective date of such action by the Legislature.

2. Assessments – Intrastate Portion. Assessments shall apply to the intrastate portion of those retail charges or rates of a mobile telecommunications provider (including a paging provider) or a provider of interconnected VoIP service that apply on an unseparated basis to both intrastate and interstate service provided in Maine (e.g., minimum monthly charges, with or without a usage allowance, or charges that combine interexchange with local and ancillary services). Unless the Commission or the Director of Telephone and Water Utility Industries approves an alternative allocation method for a carrier pursuant to paragraph 3 below, a carrier that provides interexchange service shall use the default allocation method contained in paragraph 2.

3. Default Allocation Method for Mobile Telecommunications Carriers and interconnected VoIP Providers. Mobile telecommunications providers, including paging providers, and providers of interconnected VoIP service shall use the "safe harbor" methodology established by the Federal Communications Commission for commercial mobile radio service (CMRS) providers or for providers of interconnected VoIP service, as applicable. The intrastate percentage shall equal 100 percent minus the "safe harbor" interstate percentage. All retail revenue derived from retail charges or

rates that apply on an unseparated basis to both intrastate and interstate service shall be multiplied by the intrastate percentage and the result reported as Intrastate Retail Revenue.

4. Alternative Allocation Method. Upon application by a reporting Mobile Telecommunications Carrier or a provider of Interconnected VoIP service, the Commission or the Director of Telephone and Water Utility Industries may approve an alternative allocation method for that carrier for revenues derived from retail charges or rates that apply on an unseparated basis to both intrastate and interstate service or from rates that include both interexchange and local (including ancillary) services.

H. Determination of Maine Intrastate Retail Revenue by Mobile Telecommunications Providers and Nomadic Interconnected VoIP Carriers.

1. Application of Subsection. This subsection shall apply to all Contributing Telecommunications Carriers, including interconnected VoIP providers that reported Intrastate Retail Revenues and contributed to the Telecommunications Education Access Fund prior to October 27, 2010. It shall apply to other interconnected VoIP providers only if action, after June 9, 2011, by the Maine Legislature makes such application lawful, upon the effective date of such action by the Legislature.

2. Default Method – Mobile Telecommunications Providers. Mobile telecommunications providers, including paging providers, shall determine whether intrastate revenues are Maine retail revenues subject to assessment under this rule by determining whether the primary place of use of the customer is in Maine pursuant to the sourcing rules for mobile telecommunications services of Title 36, section 2556.

3. Default Method – Nomadic Interconnected VoIP Providers. Nomadic Interconnected VoIP service providers shall determine whether intrastate revenues are Maine retail revenues subject to assessment under this rule by determining whether the primary place of use of the customer is in Maine based on the customer's E911 address; or, if the customer's E911 address is not available, pursuant to the sourcing rules for mobile telecommunications services of Title 36, section 2556.

4. Alternative Method for determination of Maine Intrastate Retail Revenues. Upon application by a mobile telecommunications carrier or a nomadic interconnected VoIP provider, the Commission or the Director of Telephone and Water Utility Industries may approve an alternative method for that carrier for determining its Maine intrastate revenues. The application shall establish that the method the carrier proposes to use will provide a reasonably accurate determination of Maine retail revenue and does not result in overcounting or undercounting of its total multistate intrastate revenues in those states in which it contributes to a state universal service fund. Alternative methods may include:

a. Customer Billing Address. The address at which the customer receives bills from the provider is located in Maine;

b. Customer Service Address. The address that the customer has designated for the purpose of E-911 response;

c. Assigned Telephone Number. The telephone number assigned to the service has an area code assigned to the State of Maine; or

d. Combination. A combination of two or more of the criteria described above that provide a reasonably accurate determination of whether the retail revenue shall be considered to be Maine retail revenue; or

e. Other. Any other method that is likely to provide a reasonably accurate determination of whether the retail revenue shall be considered to be Maine retail revenue.

I. Calculation of Contributions by Carriers. The quarterly contribution that each carrier must contribute to the Fund shall be equal to that carrier's Maine Intrastate Retail Revenue for telecommunications services, for the most recently completed quarter, multiplied by the Revenue Percentage. The Administrator shall establish the Revenue Percentage by calculating a fraction in which the Fund Costs (the sum of support payment requirement to ILECs and CLECs, other payments required or authorized by 35-A M.R.S.A. § 7104, any other payments required by law, administrative costs, and the percentage for uncollectibles) is divided by the total Intrastate Retail Revenue for telecommunications services for all carriers that have reported at least \$12,500 in Intrastate Retail Revenues as required by Section 4(G).

J. Adjustment of Revenue Percentage and Amounts. The Administrator shall adjust the Revenue Percentage described in Section 4(I) each quarter year.

K. Billing; Payment. The Fund Administrator will bill the amount determined pursuant to Section 4(E) to each carrier that must contribute pursuant to the requirements of Section 4(C). Contributors shall remit payment within the number of days stated in the invoice. The time for payment shall be no less than 30 days after the rendering of the invoice by the Administrator, and shall be established by the Director of Telephone and Water Utility Industries after consultation with the Administrator and consideration of the cash working capital needs of the Fund.

L. Disbursements from the Fund. The Fund Administrator will disburse the required payments from the Fund in quarterly installments directly to the local exchange carriers authorized to receive funding and to other recipients as required or authorized by law.

M. Electronic Processing. To the extent practicable, the Administrator shall implement an electronic system for reporting of revenues, billing, payments by contributors and disbursements.

## **§ 5 IDENTIFICATION AND RECOVERY OF CONTRIBUTIONS BY CONTRIBUTING CARRIERS**

A. Identification of Contributions. All Carriers that must contribute to the MUSF must provide the following one of the following notifications on each bill or other statement of charges that they send to their customers:

1. "Pursuant to the requirements of 35-A M.R.S.A. § 7104, [Name of carrier] contributed \$\_\_\_\_\_ during the 12 months ending [month, year] to the Maine Universal Service Fund."
2. "Pursuant to the requirements of 35-A M.R.S.A. § 7104, during the calendar year \_\_\_\_\_, [Name of carrier] contributed \$\_\_\_\_\_ to the Maine Universal Service Fund."
3. "Pursuant to the requirements of 35-A M.R.S.A. § 7104, during the past quarter year, [Name of carrier] contributed \_\_\_\_\_ percent of its Maine intrastate revenues to the Maine Universal Service Fund."
4. "Pursuant to the requirements of 35-A M.R.S.A. § 7104, during the calendar year \_\_\_\_\_, [Name of carrier] contributed an average of \_\_\_\_\_ percent of its Maine intrastate revenues to the Maine Universal Service Fund."
5. "Pursuant to the requirements of 35-A M.R.S.A. § 7104, during the 12 months ending [month, year, [Name of carrier] contributed an average of \_\_\_\_\_ percent of its Maine intrastate revenues to the Maine Universal Service Fund."

For alternative notifications 1 and 5, the 12-month period identified shall be the most recent period for which data is available, and for the first 12 months during which carriers contribute to the Fund, the wording of the notification shall be adjusted to reflect the actual number of months of contribution and the total amount contributed during that period. A carrier that uses alternative notification number 2 or 4 during 2003 shall substitute "during the current year" for the words "during the calendar year \_\_\_\_\_."

This Subsection does not apply to carriers that do not provide bills or other statements of charges (written or electronic) to their customers.

B. Recovery of Contributions; Surcharge. Carriers subject to the jurisdiction of the Commission may recover contributions that they make to the MUSF through a surcharge that they impose on their end-user customers subject to the following requirements:

1. Maximum Percentage. No surcharge imposed on any intrastate retail service or on any customer shall exceed the Revenue Percentage established by the Fund Administrator pursuant to Section 4(I) and (J);
2. Application – In General. Subject to the provisions of Section 5(B)(3), the surcharge may apply to all intrastate retail telecommunications services provided to a retail customer, or any designated subset of those services, but shall not apply to surcharges for Enhanced 911, for the Maine Telecommunications Education

Access Fund, ConnectME, or for similar funds that are not part of a carrier's retail service offerings;

3. Application to Intrastate Portion Only of Jurisdictionally Mixed Charges. If a contributing carrier has rates or charges that apply on an unseparated basis to both intrastate and interstate service (e.g., minimum monthly charges, with or without a usage allowance, or charges that combine interexchange and local services), it may apply the surcharge only to the intrastate portion of those charges using the same allocation method that it uses for reporting those revenues pursuant to Section 4(D), 4(E) or 4(F), as applicable;

4. Identification of Surcharge. The surcharge shall be identified on customer bills as the "Maine Universal Service Fund surcharge" and shown as a separate line item, except that no such notification is required if the carrier does not provide bills or other statements of charges (written or electronic) to its customers;

5. Rate Schedules. The surcharge shall be included in the carrier's rate schedule, which may incorporate the Revenue Percentage that is adjusted quarterly by the Fund Administrator rather than stating a specific surcharge percentage.

## § 6 WAIVER OF PROVISIONS OF CHAPTER

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may, for good cause, waive any of the requirements of this Chapter that is not required by statute. The waiver may not be inconsistent with the purposes of this Chapter or Title 35-A. The Commission, the Director of Telephone and Water Utility Industries, or the Presiding Officer assigned to a proceeding related to this Chapter may grant the waiver.

**BASIS STATEMENT:** The factual and policy basis for this rule is set forth in the Commission's Statement of Factual and Policy Basis and Order Approving Rule issued on July 18, 2001 in Docket No. 2001-230; the Commission's Statement of Factual and Policy Basis and Order Adopting Rule, Commission Docket No. 2002-687, issued on March 17, 2003; and the Commission's Statement of Factual and Policy Basis and Order Approving Rule issued on 8/2/11 in Docket No. 2011-69. Copies of these Statements and Orders have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04330-0018.

**AUTHORITY:** 35-A M.R.S.A. §§ 104, 111, 7104

**EFFECTIVE DATE:** The amended rule was approved as to form and legality by the Attorney General on 8/10/11. It was filed with the Secretary of State on 8/10/11 and became effective on 8/15/11.